

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID LEE SPOTTED EAGLE,

Defendant.

CR-11-87-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on February 5, 2016 (Doc. 50.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on February 4, 2016. (Doc. 44.) Spotted Eagle admitted that he violated his conditions of supervised release. The violations prove serious and warrant revocation of Spotted Eagle's release. Judge Johnston recommends that the Court revoke Spotted Eagle's supervised release and commit Spotted Eagle to the custody of the Bureau of Prisons for three months. (Doc. 50 at 5.) Judge Johnston further recommends that Spotted Eagle be sentenced to 33 months of supervised release. *Id.* Judge Johnston recommends that the conditions previously be continued. *Id.*

Spotted Eagle's violation qualifies as a Grade C. His criminal history category equals I. Spotted Eagle's underlying offense qualifies as a Class C felony. The Court could impose a sentence of 24 months imprisonment and a supervised release term of 36 months, less any custody time imposed. The United States Sentencing Guidelines call for three to nine months in custody.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Falcon's violations of his conditions represent a serious breach of the Court's trust. A sentence of 3 months of imprisonment followed by 33 months of supervised release represents a sufficient, but not greater than necessary, sentence.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 50) is ADOPTED IN FULL. **IT IS FURTHER ORDERED** that Defendant

David Lee Spotted Eagle be sentenced to three months imprisonment followed by 33 months of supervised release. The conditions previously imposed shall be continued.

DATED this 29th day of February, 2016.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris
United States District Court Judge